

Dear FCC Members:

I have joined with DigitalConsumer.org in expressing my concerns over the "broadcast flag" issue with the upcoming digital TV systems. While I do not as yet have such equipment in my possession, I will as it becomes available and as my funds allow, providing it allows me to use it as I am now using analog equipment.

I occasionally "time shift" broadcast programming by recording in on a VCR for playback at a time that's most convenient for me; a perfect example of "fair use." Should I happen to record a program that I'd like to keep for a very long time, I visit my local retailer and purchase the DVD of the program, if available. If it isn't available in DVD format, then I hold onto the video tape of my "time-shifted" programming and treat it as if it were a DVD -- I don't loan it out, copy it, etc., until such time the programming is made available on DVD. In any case, when I'm done with the video tape, it gets erased and reused for something else.

I fear that by instituting a "broadcast flag" into digital programming, I'll lose that ability to "time-shift." I'd feel like I have no control of how or when I'm able to enjoy such programming; being "trapped" by whatever schedule the content provider may think is appropriate.

Of course, if the content providers can sufficiently guarantee my ability to fairly use the content as I'm now able, I would have no problem with a "broadcast flag." But, I would also want the ability to override such a flag if the equipment will be used for programming that I come up with on my own (such as any DVDs I may record using digital video recorders at family events, etc.).

I agree with providers that they need to take any precaution necessary to stop the illegal pirating of their material -- as long as it is economical, common sensical, and doesn't impinge on legal "fair use" provisions and concepts. However, I think we all realize that there is no way to completely stop piracy. As long as human beings have to use ears and eyes to view material, there will always be ways, "old-fashioned" as they may be, to illegally obsound with programming. Should the day come when programming can be enjoyed by physically and directly connecting the sight and sound centers of the human brain into the playback equipment, we might have a case for being able to completely control the use of the content. Short of that situation, there is little hope of completely stopping the copying, hence, common sense must prevail.

Please, when you make your deliberations, take into account how many times you have either "time-shifted" programming yourselves or wished you could have. Also, please take into consideration the pleasures you enjoy at being able to view prerecorded programming on your schedule. As long as the proposed "broadcast flag" doesn't impinge on those abilities, then I'd have no problem with it.

Thanks for reading my thoughts. I'm not sure how much they'll help in your deliberations, but hopefully they will have some impact.

Regards,

Stephen Adams
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P.S. What follows below is the verbiage presented by DigitalConsumer.org. I leave it intact for it takes into consideration additional points of view...

"As a consumer of digital content, I have a grave concern about the proposed Broadcast Flag. I enjoy the flexibility and control that technology gives me. I can be more than a passive recipient of content; I can modify, create and participate. Technology currently gives me more choices by allowing me to record a television program and watch it later; clip a small piece of TV and splice it into a home movie; send an email clip of my child's football game to a distant relative; or record a TV program onto a DVD and play it at my friend's apartment. The broadcast flag seems designed to remove this control and flexibility that I enjoy.

"Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time.) Diamond Multimedia invented the MP3 player -- a recording label did not. Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers.

"I am a law-abiding consumer who believes that piracy should be prevented and prosecuted. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then the FCC should be working to protect all consumers rather than enable those who would restrict consumer rights. In the case of the broadcast flag, it seems that it will have little effect on piracy. With file-sharing networks, a TV program has only to be cracked once, and it will propagate rapidly across the Internet. So, while I may be required to purchase consumer electronic devices that cost more and allow me to do less, piracy will not be diminished.

"In closing, I urge you to require the content industry to demonstrate that its proposed technologies will allow for all legal uses and will actually achieve the stated goal of preventing piracy. If they cannot, I urge you not to mandate the broadcast flag."